HIGH COURT OF UTTARANCHAL AT NAINITAL

(Court's order whether the case is or not approved for reporting)

(Chapter VIII Rule 32 (2)(b)

Description of the case.

W.P. 1255 of 2003 (SS)

Vinod Kumar vs. Assistant Labour Commissioner

Approved for reporting.

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~~Not approved for reporting~~

Date of decision… 20.10.2003

Initial of Judge

HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1255 of 2003 (SS)

Vinod Kumar son of Sri Ram Chandra
R/o 853/Type II, Sector 1, BHEL, Ranipur
Haridwar ..... Petitioner

Versus

Assistant Labour commissioner,
Devpura Haridwar. ..... Respondent

Sri Lokpal Singh, Advocate for the petitioner
Standing Counsel for the respondent.

Dated: October 20, 2003

Hon'ble Rajesh Tandon, J.

This writ petition has been filed for issue of a writ or direction in the nature of mandamus commanding the respondent to initiate the prosecution against the officers of the B.H.E.L. Ranipur, Haridwar in pursuance of Section 14A of U.P. Industrial Dispute Act 1947, on the basis of application dated 5.9.2003.

Briefly stated the facts giving rise to the present writ petition are that the petitioner and other employees are working in the B.H.E.L., Ranipur, Haridwar. They have raised labour dispute before the Assistant Labour Commissioner which was referred to the Presiding Officer, Labour Court, Dehradun being Industrial Case Nos.

31 of 1990 to 44 of 1990. The labour court has passed an award on 5.7.1996 in favour of the employees against the employer M/S B.H.E.L. and was notified on 19.12.1996. The employer filed a writ Petition No. 41787 of 1998, Bharat Heavy Electrical Ltd; Ranipur vs. Deputy Labour Commissioner and others before the Allahabad High Court which was dismissed by the Court vide order dated 17.2.1999. The observations of Allahabad High Court in the said order are quoted below:

"In the result, both the writ petition nos. 2109 of 1997 an 4187 of 1998 are found without any merit and substance and are accordingly dismissed. In case the petitioner deposits a sum of Rs.2,17,000/- (Rs. Two lacs and seventeen thousand) with the Dy. Labour Commissioner, Meerut Region Meerut within a period of one month from the date of this order (i.e. today) no further action for initiating criminal proceedings in view of the provisions of Section 14-A of the Act shall be taken against it. If the amount, aforesaid is deposited, it shall be disbursed to the respondent workmen in terms of the award dated 5.7.1996. In the event of the failure of the petitioner to deposit the amount, aforesaid, within the stipulated time, this order would not be an impediment in launching criminal proceedings against the petitioner under sec. 14-A of the Act. IN the light of the

observations made above, Civil Misc. Writ Petition No. 1654 of 1999 shall stand disposed of. The parties shall bear their own costs."

The petitioner has stated that his application-dated 5.9.2003 is still pending. Copy of which is annexed as annexure -4 and the same has not been disposed of.

Without entering into the merits of the controversy, the respondent is directed to dispose of the application of the petitioner in accordance with law within a period of four weeks after receiving certified copy of this order. The observations made above, shall not come in the way of the Labour Commissioner to dispose the application of the petitioner on merits.

With the above observations the writ petition is disposed of. There will be no order as to costs.

20.10.2003 **(Rajesh Tandon, J.)**
*Dhyani